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National Church Residences

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I am Tom Herlihy, Development Specialist for National Church Residences (NCR). NCR is one of the nation's largest not-for-profit sponsors and managers of affordable housing for seniors, including over 15,000 federally assisted housing units located in 25 states. I am pleased to represent the views of NCR and the American Association of Homes and Services for the Aging (AAHSA), of whom we are a member. AAHSA is the largest organization representing nonprofit sponsors of senior housing. Our members own and manage more than 300,000 units of federally assisted and market rate housing – and we represent the largest number of sponsors of HUD Section 202 Supportive Housing for the Elderly projects.

NCR currently has eleven 202 projects in development, pre-Initial Closing, in South Carolina, Ohio, Pennsylvania, New Jersey, Texas and Arizona and three projects under construction in states including Kansas, Ohio and New Jersey.

HUD's Section 202 program addresses the specific and existing problem of a lack of affordable housing for very low income seniors who may also need access to some basic supportive services. The construction of almost 5700 units each year of such housing under the Section 202 program assists at least this many very low income seniors with securing supportive, safe, affordable and decent housing. The level of access to coordinated, supportive services in the Section 202 program is not found in any other Federal, state, local or private effort. Given the size of the program (building 5700 supportive and affordable units each year), the program is certainly unparalleled.

Section 202 funding applicants must demonstrate their property's proximity to medical facilities, transportation, shopping and other necessary services for intended occupants. They must also demonstrate the extent to which their property designs will meet the special physical needs of seniors, the extent to which the property will accommodate the provision of supportive services, how their proposed supportive services will meet the identified needs of anticipated residents, etc. No other program, not to mention a program of this size, must meet these thresholds with regard to housing seniors.

A HUD-funded Arthur Andersen report identified several areas where the Section 202 development pipeline could be improved. Among the reasons identified in this 2001 report were: competency deficiencies and inadequate number of staff at the HUD program centers handling Section 202 applications; problems with site control and other site issues; inadequate funding; and, inexperienced non-profits. Along with AAHSA, NCR is committed to the continual improvement of the Section 202 program.

The 202 program is burdened with delays form the onset, beginning with the 6-7 month process to review, score, rank, and award applications. Additionally, the "due date" for applications varies from year to year, as does the date that awards are announced. In 2003, for instance, applications were due June 13; traditionally, applications are due around Memorial Day. During the past five years, funding announcements have been issued in October, November, December, and January, which is 6-7 months after applications are submitted. Comparably, state LITHC applications are reviewed and awarded 90-120 days after submission. The evolving complexity of 202 applications is the most likely culprit for the increased time frame to process and award applications.

NCR believes there are some key areas where particular attention should be devoted in order to improve Section 202 processing timelines. One area is in the stage of the process from the application submission deadline to HUD announcement of awards. This time frame has become quite substantial and, we believe, unnecessarily long. From the deadline time to the announcement of awards has become a seven-month process. A quick survey of state housing finance agency low income housing tax credit application processes reveals their process (from deadline to grant award announcements) lasts for approximately 90-120 days. According to the 2001 Arthur Andersen report, the time needed for HUD field offices to review applications and calculate needed capital advance and project rental assistance amounts is 90-120 days. Then, HUD headquarters receives the field office recommendations. This report is consistent with our experience, stating, "Although there does not appear to be delays in the Funds Reservation process, in recent years there have been significant delays in the announcement of awards." In FY2002, for example, the notice of funds availability was published in March but awards were not announced until October.

Application / Award Process - It is my contention that the application process should be simplified, and the redundancies in the application eliminated. Given the fact that offices are inundated with applications, a simplified process would significantly expedite the process. I recommend that the current should be divided as follows:

1. General sponsor qualification information to be reviewed by one office. General, "evergreen" information, or consistent facts that have already been awarded points, can then be kept on file and renewed every three to five years, rather than annually;
2. Site-specific information, which would reduce the burden of scoring, ranking, and awarding funds. An inordinate amount of time is spent awarding "pooled" funds at the final stage of the process. A potential resolution is to announce locally funded applications prior to those funded from the national pool.

One of our most costly and critical upfront purchases is for land or an option to purchase land. The maintenance of site control is crucial for the timely completion of the development. Delays at the very beginning of the process add months to our timeline. As developers, we pay a premium to hold an option for a future property closing. This premium and thus the overall development budget could be reduced if HUD announced the awards in a more timely fashion. Furthermore, delays in grant announcements can lead to loss of site control if the seller decides to sell the land to another buyer. If a successful Section 202 applicant loses site control, additional time must be spent to purchase other land and work through land use approval processes. This is not necessarily a performance issue but rather a procedural practice that has evolved over the lifetime of the Section 202 program. We recommend that HUD announce awards immediately after project selection and Funds Reservation are completed at HUD.

Land Value – If the appraised value of the site does not match the price negotiated at closing, and if the seller is unwilling to renegotiate, we have no option but find and alternate site. Proper negotiation of land value is impeded by the fact the closing sale of land succeeds that date of negotiation by at least two years. In some cases, HUD field offices overturn professional appraisals, causing unnecessary construction delays and cost overruns in significant excess of any savings gained by the reduction of the land value.

Zoning – A time-consuming and frustrating process. Typically, we must first appeal to a planning and zoning commission, followed by appeals to city council. Each step requires a minimum of two hearings, which usually occur monthly. The entire process takes up to four months, but can takes longer.

Environmental Concerns - Possible environmental concerns cause substantial development delays. Subsequent investigations sometimes prove inconclusive and require additional tests to determine a proper course of action or resolution. I have seen environmental factors cause a project to be delayed for a year.

Local requirements – Multifamily or elderly housing is occasionally deemed an "allowed conditional use." If allowed the project must be reviewed and/or approved by planning and zoning, who may choose to saddle the project with special conditions. I've been forced to install covered bus shelters off-site, build sidewalks off-site, construct sidewalks 450'x6' wide when there were no sidewalks at either end, construct 6' high concrete block walls when there were no other walls in the area, make water and sewer improvements off-site, etc. We can often secure additional local funding, but the application process slows down development.

Davis-Bacon Wage Rates – In some instances, eleventh-hour increases in Davis-Bacon wage rates cause construction cost overruns as wage rates in effect at the time of bidding and used to figure budgets, are negated. Increases bring the development process to screeching halt, thereby necessitating value engineering, re-bidding, and reprocessing.

NCR also supports the AAHSA's testimony, particularly its recommendations to improve Section 202 processing, including increasing the number and training of HUD staff, adequate total development cost limits, outlining upfront costs in HUD's annual Notice of Funds Availability, encouraging experienced non-profits or partnership with experienced non-profits, providing realistic total development costs and issuing guidance implementing the Congressionally authorized ability to use non-HUD resources like low income housing tax credits in conjunction with Section 202 new development.

We would like to broadly state, however, that the Section 202 processing timeline is not wildly different from other construction ventures. The development timeline is most significantly affected by the local zoning process, which is the same for any developer (HUD-subsidized or not).

In addition to the recommendations and observations outlined above, NCR and AAHSA also believe that HUD's responsibilities to the Section 202 program are not limited to those related to the development process. After the housing is built, increased attention must be given to maintaining and preserving this stock. The Section 202 program was begun in 1959; its properties have aged in place along with its residents. HUD has paid admirable attention to trying to boost the supportive services available to our increasingly frail residents. Where we think HUD has ample room for improvement is in its dedication to assuring the long-term viability of the federally-subsidized housing stock for the long-term. According to the National Housing Trust in its research for the 2002 Seniors Commission report to Congress, 20,000 of the 197,000 federally-subsidized units lost to owner loan prepayment or non-renewal of HUD rent subsidy contracts were home to seniors. These units have been permanently lost to the private rental market. NCR and AAHSA strongly encourage HUD offices to work more closely with existing non-profits, which are often eager to help HUD preserve these units as affordable for very low-income seniors. With so few new Section 202 units being built each year, we cannot afford to continue to lose federally-subsidized units at the rate outlined by the National Housing Trust. We rely on HUD headquarters to consistently and strongly lead its field offices to preserve all viable affordable units for as long as possible.

There are some notable illustrations where HUD has worked in conjunction with non-profits to preserve housing. For example, in late 1999, NCR accepted title to two 52-unit affordable senior housing communities in eastern Ohio. Formerly owned by a for-profit organization, Bridgeport Manor and Barnesville Manor operated under the Section 8 program. In what marks a milestone in the transfer of property from a for-profit entity to a not-for-profit organization, HUD approved the transfer of the two facilities to NCR, citing NCR's commitment to the preservation of quality, affordable senior housing. NCR's acquisition of these two properties was part of HUD's Re-Engineering Demonstration project. The project was created to offset the number of for-profit entities that are opting out of the affordable housing program. In 1999, many 20-year HUD contracts expired, leaving affordable housing owners the option to either withdraw from the program or to re-negotiate their contracts with HUD. In re-evaluating the contracts, HUD lowers resident rent structures, thereby causing a substantial decrease in owner profit. Of approximately 169 eligible properties in Ohio in 1999, only 23 were approved for transfer by HUD. The acquisition of Bridgeport Manor and Barnesville Manor is the result of a transfer of physical assets, which amounts to a contribution to NCR from the former owner.

But, while there have been fewer than a dozen Section 202 foreclosures in the past two years, HUD has too often failed to protect these units for the long-haul. In one example, a Section 202 facility sold in Detroit called Four Freedoms. This is a 22 story building with 320 units (57% are efficiencies) that was constructed in the 1960's, originally as a non-profit Section 236 but later converted to Section 202. The result of this foreclosure will be a permanent loss of project-based subsidies and a loss of tax revenue to the City. In this instance, it appears that HUD did not intervene to provide timely technical assistance, to provide oversight, and to take other actions to preserve the affordable housing that was quickly sold to a for-profit buyer at a price far below the assessed value. This resulted in not only losing the affordable housing project, but compromising the integrity and long-term reputation of the program. Fiscal year 2003 will only finance about 110 units of senior housing in the Detroit area. Minimally, it will take three years to replace these 320 affordable senior housing units.

HUD has also been given tools by Congress to modernize their existing housing portfolio but has been painfully slow to implement these much-needed tools. For example, cash-starved Section 202 properties in desperate need of funds to modernize deteriorating properties were given the authority in 2000 to refinance high-cost loans and put the associated cost savings back into their properties. HUD field offices and HUD headquarters have been very slow to move what we believe are numerous applications in to do re-financings. Given today's interest rates, Section 202 owners with interest rates in the eight- and nine-percent ranges (and even higher) have much to gain from refinancing. But, HUD offices seem to lack the skilled staffing levels required to process these refinancing applications in efficient and effective ways that will benefit residents, the properties and the federal government.

A recent AARP study found that 20% of the oldest Section 202 facilities reported that their capital reserves are inadequate to meet current repair needs and that 36% reported that reserves are inadequate to meet projected repair needs. We believe that it is sound public policy to protect the public investment in federally assisted elderly housing facilities. There are over 5,000 properties (more than 250,000 units) that were developed by the pre-990 Section 202 loan program, including 2,800 projects developed under cost containment policies in the 1980s that severely limited common space, reduced amenities, used lesser quality materials and had an emphasis on efficiencies. In addition to structural needs, many of these older facilities need capital improvements to accommodate residents' present and future service needs.

In addition to speeding up the review and approval of refinancing applications, there are other ways NCR and AASHA believe Congress and HUD could assist non-profits in being stewards of this precious housing stock. These include:

- Enact exit tax relief for current owners.

- Establish a right of first refusal for Section 202s to purchase at-risk, federally-subsidized elderly housing.

- Authorize and fund grants to eligible non-profits to acquire at-risk properties.

- Release modernization grants to repair older properties. Although Congress authorized and funded a HUD modernization and assisted living conversion grant program in 2000, HUD has thus far only implemented the assisted living conversion program portion of the statute. NCR and AAHSA strongly recommend that both capital repair and assisted living conversion funds are released.

Thank you for providing National Church Residences the opportunity to testify on the Section 202 program. We are thankful for the leadership the Senate Special Committee on

Aging has provided in affordable elderly housing. We are pleased to be able to contribute to the committee's deliberation on these critical issues. We urge your support for the recommendations outlined in our testimony and we hope that our comments will assist you in helping steward federally-subsidized housing that is responsive to the critical role of housing within the long term care continuum of low income elderly people. If you desire additional information, please contact Tom Herlihy, Development Specialist, NCR, at 614/273-3529 or therlihy@ncr.org or Linda Couch, Acting Director of Housing Policy, AAHSA, at 202/508-9476 or lcouch@aahsa.org.